CHAPTER ccxxxii.

An Act for incorporating and conferring powers on the Devonport and District Tramways Company and for other purposes. A.D. 1898.

[12th August 1898.]

WHEREAS the construction of the tramways herein-after described in the county of Devon would be attended with public and local advantage and the persons herein-after named with others are willing to construct the said tramways and works on being incorporated into a company and having the powers herein-after conferred upon them:

And whereas it is expedient that the Company by this Act incorporated (herein-after called "the Company") should have conferred upon them the powers in this Act contained with reference and for the acquisition and working of omnibuses and other vehicles:

And whereas plans and sections showing the lines and levels of the tramways authorised by this Act and a book of reference thereto were duly deposited with the clerk of the peace for the county of Devon and are herein-after respectively referred to as the deposited plans sections and book of reference:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:—

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. This Act may be cited as the Devonport and District Tramways Act 1898. Short title.

2. The Companies Clauses Consolidation Act 1845 Part I. (relating to cancellation and surrender of shares) of the Companies Clauses Act 1863 as amended by subsequent Acts the Lands Incorporation of general Acts.

A.D. 1898.

Clauses Acts and section 3 (Interpretation of terms) Part II. (Construction of tramways) and Part III. (General provisions) of the Tramways Act 1870 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction:

The expression "the Company" means the Company incorporated by this Act;

The expression "the corporation" means the mayor aldermen and burgesses of the borough of Devonport;

The expression "the borough" means the borough of Devonport;

The expression "the tramways" means the tramways by this Act authorised;

The expression "the undertaking" means the undertaking of the Company;

"Engine" includes motor;

"Mechanical power" includes steam electric and every other power not being animal power; and

The word "contingencies" in the Companies Clauses Consolidation Act 1845 section 122 shall with reference to the Company be construed to include the contingency of the undertaking or any part thereof being sold to the local authority under section 43 of the Tramways Act 1870 at a sum less than the aggregate amount of the capital and debts of the Company.

Company incorporated.

4. Thomas James Rigby John James Briggs and James William Thompson and all other persons who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and are hereby united into a Company for the purpose of making maintaining and working the tramways and for other the purposes of this Act and for those purposes shall be incorporated by the name of "The Devonport and District Tramways Company" and by that name shall be a body corporate with perpetual succession and a common seal and with power to purchase take hold and dispose of lands and other property for the purposes of this Act and their undertaking shall be called "The Devonport and District Tramways."

Power to make tramways.

5. Subject to the provisions of this Act and of Parts II. and III. of the Tramways Act the Company may make form lay down work use and maintain the tramways in the borough herein-after

described in the lines and according to the levels shown on the deposited plans and sections and in all respects in accordance with those plans and sections with all proper rails plates works and conveniences connected therewith :

The tramways herein-before referred to and authorised by this Act are—

Tramway No. 2 (2·44 chains or thereabouts in length the whole of which is double line) commencing at the boundary between the borough of Plymouth and the borough on Pennycomequick Hill and terminating at a point 0·26 chain or thereabouts west of the intersection of Stuart Road and Alma Road :

Tramway No. 5 (7 furlongs 9·46 chains or thereabouts in length the whole of which is double line) commencing in Stuart Road at a point 0·27 chain west of the intersection of that road with Alma Road and Pennycomequick Hill and terminating at a point 0·37 chain or thereabouts east of the intersection of Paradise Road and the road on the east side of the new science art and technical schools in Paradise Road :

Tramway No. 6 (7 furlongs 1·41 chains or thereabouts in length of which 2 furlongs 4·72 chains is single line and 4 furlongs 6·69 chains is double line) commencing at the point of termination of Tramway No. 5 herein-before described and terminating by a junction with Tramway No. 9 at a point 2·62 chains or thereabouts north of the intersection of William Street and Tamar Road :

Tramway No. 7 (1 furlong 3·91 chains or thereabouts in length the whole of which is double line) commencing by a junction with Tramway No. 6 herein-before described at a point 0·43 chain or thereabouts north of the intersection of Granby Street with Marlborough Street and terminating by a junction with the said Tramway No. 6 at a point 0·41 chain or thereabouts south of the intersection of High Street and Princes Street in High Street :

Tramway No. 8 (1 mile 2 furlongs 1·21 chains or thereabouts in length of which 0·82 chain is single line and 1 mile 2 furlongs 0·39 chain is double line) commencing by a junction with Tramway No. 6 herein-before described and Tramway No. 9 herein-after described at a point 2·62 chains or thereabouts north of the intersection of Tamar Road and William Street and terminating at a point 0·80 chain or thereabouts west of the intersection of Saltash Road and Wolseley Road in Wolseley Road :

A.D. 1898.

Tramway No. 9 (5 furlongs 5·64 chains or thereabouts in length the whole of which is double line) commencing by a junction with Tramway No. 8 herein-before described at a point 2·62 chains or thereabouts north of the junction of Keyham Road and Tamar Road and terminating in Paradise Road by a junction with Tramway No. 5 herein-before described at a point 0·37 chain or thereabouts east of the junction of Paradise Road with the road on the east side of the technical schools:

Tramway No. 10 (1 mile 0 furlong 4·80 chains or thereabouts in length of which 0·41 chain is single line and 1 mile 0 furlong 4·39 chains is double line) commencing by a junction with Tramway No. 6 at a point 1·00 chain or thereabouts west of the intersection of Paradise Road and Trafalgar Road and terminating at a point 0·48 chain or thereabouts west of the intersection of Tavistock Road and Wolseley Road.

Saving rights of Her Majesty's Principal Secretary of State for the War Department.

6. And whereas it is necessary that the lands hereditaments and works belonging to Her Majesty or vested in Her Majesty's Principal Secretary of State for the War Department for the public service should be preserved intact and free from all intrusion or obstruction Be it therefore enacted that nothing in this Act contained shall authorise the Company to enter upon use or interfere with any land soil or water or any right in respect thereof vested in or exercised by the said Principal Secretary or to take away lessen prejudice or alter any of the rights privileges or powers vested in or exercised by the said Principal Secretary without his previous consent signified in writing under his hand and which consent the said Principal Secretary is hereby authorised to give subject to such special or other conditions as he shall see fit to impose on the said Company.

For protection of Secretary of State for War.

7. For the protection of Her Majesty's Principal Secretary of State for War the following provisions shall have effect namely:—

(1) The tramways where they pass the General Military Hospital in the borough shall be laid as a single line only unless the Secretary of State shall in writing consent to their being so laid as a double line:

(2) No tramway shall be laid in the road where it passes in front of the New Granby Barracks in the borough without the consent in writing of the Secretary of State:

(3) Nothing in this Act contained shall take away prejudice or affect the right of access of the Secretary of State to any drains or pipes passing under any road on which the tramways or any of them are laid connected with the drainage

or water supply of buildings belonging to or vested in the Secretary of State nor shall he be liable to the Company for any expense occasioned to them by reason of any interference with the tramways or any of them occasioned by any works necessary for the examination alteration or repair of any such drains pipes or apparatus by the Secretary of State Provided nevertheless that in carrying out from time to time any works likely to cause interference with the tramways the Secretary of State shall use due and reasonable care to avoid as far as possible injury to or interference with the tramways and shall carry out and complete all such works with all reasonable despatch.

For protection of corporation.

8. For the protection of the corporation the following provisions shall apply and have effect :—

(1) In any purchase of the undertaking by the corporation in pursuance of the powers conferred upon them by section 43 of the Tramways Act 1870 the omnibuses vehicles and property acquired by the Company under the section of this Act whereof the marginal note is "Company may acquire and work omnibuses" shall not be deemed to be included unless the corporation shall expressly include them in the resolution mentioned in the said section :

(2) If and whenever the tramways or any part or parts thereof or the powers of the Company under this Act are purchased by the corporation the corporation shall notwithstanding anything in the Tramways Act 1870 to the contrary contained have full power to work the tramways as if they had been expressly authorised by this Act so to do in place of the Company and to place and run carriages upon such tramways and to demand and take tolls and charges in respect of the use of such carriages and tramways or any part thereof and to provide all such stables buildings horses cars rolling stock engines machinery plant apparatus and appliances as may be requisite or convenient for the working or user of the tramways :

(3) If at any time the Company desire to sell their undertaking or any portion thereof which shall include any tramways within the borough to any other company body or person they shall before entering into any agreement with any such company body or person make an offer in writing to the corporation to sell to them so much of the tramways which the Company desire to sell as shall be situate within the said borough at such proportionate price per mile as the Company

A.D. 1898.

may be offered by such other company body or person for the whole undertaking of the Company or at such price as shall be agreed upon between the Company and the corporation or as failing agreement shall be determined by arbitration and the local authority may purchase such portion of the tramways accordingly Provided always that if for a period of two months after such offer is made the corporation fail to give notice in writing to the Company of their intention to purchase the said tramways the Company shall be at liberty to sell the same to any such company body or person as aforesaid :

(4) The Company shall with all convenient speed after the passing of this Act and in accordance with plans and sections signed in triplicate by the Right Honourable James William Lowther the Chairman of the Committee of the House of Commons to which the Bill for this Act was referred one copy of which plans and sections has been deposited with the clerk of the peace for the borough alter and improve the gradients levels and contour of the following roads and streets (that is to say) (1) Keyham Road between Albert Road and St. Levan Road (2) Saltash Road for a distance of 45 yards or thereabouts in a westerly direction from its junction with Wolseley Road (3) Paradise Road and Wilton Road between the easterly side of the London and South Western Railway and Valletort Road The said tramways shall not be deemed to be completed until the said alterations and improvements are carried out to the reasonable satisfaction in all respects of the borough surveyor The expense of carrying out all such alterations and improvements as aforesaid shall be borne and paid by the Company save and except the expense of any alteration or reconstruction of sewers or drains rendered necessary by the said alterations or improvements and save and except any sums payable as compensation to any person or persons by reason or in consequence of any such alterations or improvements or reconstruction as aforesaid which together with all costs and expenses connected therewith shall be borne and paid by the corporation :

(5) Section 28 of the Tramways Act 1870 and the provisions of this Act with respect to the paving and maintaining certain portions of the roadways of any road whereon any of the tramways are laid shall extend and apply to the whole width of any road where it is proposed that a less space than four feet shall intervene between the outside of the footpath on either side of the road and the nearest rail of the tramway :

(6) The corporation may by notice in writing to the Company for the purpose of regulating and facilitating the traffic on market or fair days or for the execution of any works by the corporation or any gas or water company or during the time of any public meeting procession or demonstration or for any other purpose which the corporation having regard to the good government of the borough or the safety of the public may deem necessary stop delay and suspend the working of the tramways or any of them but so that such stoppage delay or suspension shall continue only so long as may reasonably be necessary for the purposes aforesaid or any of them and the Company shall not be entitled to claim any compensation for damages in respect thereof and for every contravention of the provisions of such notice the Company shall be liable to a penalty not exceeding five pounds :

(7) Whenever the Company desire under the authority of this Act to do any act which may render necessary the alteration removal or displacement of any apparatus or works belonging to or under the control of the corporation the Company shall give to the corporation fourteen clear days' notice in writing of such desire and the corporation may thereupon but without prejudice to the protection afforded to them by the Tramways Act 1870 or by this Act make such alteration displacement or removal as the case may be and do all works incidental thereto and all reasonable expenses that may be incurred by the corporation shall be a debt due to them from the Company :

(8) When any of the tramways are constructed or intended to be constructed over any manhole or entrance into any sewer of the corporation or so close to such manhole or entrance as to make the use thereof dangerous or inconvenient in the opinion of the corporation the Company shall if required by the corporation construct a side entrance in lieu of such manhole or entrance in such positions and according to such plan as may be approved by the corporation or the corporation may at their option construct such side entrance and the Company shall repay to the corporation the costs thereof and also the costs of the preparation and approval of such plan and incidental thereto :

(9) The Company shall at their own risk and expense in all respects if and when required by the corporation forthwith reconstruct and relay so much of all culverts drains sewers mains pipes and other apparatus as shall be situate under any road upon which the tramways are intended to be laid and

A.D. 1898.

which would in the opinion of the corporation or their surveyor be injuriously affected by the tramways or the works connected therewith and the same shall be reconstructed and relaid with all needful alterations in such parts of such roads as may be prescribed by and to the reasonable satisfaction of the corporation Provided that in case of difference of opinion between the Company and the corporation or their surveyor as to whether such culverts drains sewers mains or pipes will be injuriously affected the same shall be determined by the Board of Trade:

(10) Save as herein-before provided the corporation shall not be liable for and the Company shall indemnify the corporation against all loss to the Company by reason of suspension of traffic and all accidents damages or injuries to the tramway works and property of the Company and the persons and property being conveyed on or using the same and all actions suits and costs in respect thereof which may either during the progress of the works of the Company or at any time hereafter be caused by the bursting breaking or leakage of or escape from any culvert sewer main or pipe or other apparatus of the corporation crossing or being underneath (either wholly or partially) or near to any tramway or work of the Company or which may have been affected by the works of the Company unless such damage or injury shall have arisen as the consequence of any wilful act or default of the corporation or their officers or servants:

(11) The corporation shall not be responsible to the Company for any damage the Company may sustain by reason of their having to repair or relay their lines from time to time in consequence of the road subsiding after the construction or relaying of any culvert sewer mains pipes and apparatus has been completed and the ground above the same filled in:

(12) The Company shall not construct or maintain the tramways in such a manner that water shall accumulate upon the tramways or the roadway and they shall when required so to do by the corporation lay drains beneath upon or across the tramways and connect them to drains of the corporation:

(13) The Company shall not lay down or use any double line of tramway within the borough so that there shall be a less distance than eighteen inches in width between the carriages of the Company when standing or passing side by side on such double line:

(14) All posts standards brackets and other works erected in the said borough by the Company shall be of such position design

height material strength and proportion and shall be securely fixed in such manner as may be approved by the corporation and the corporation shall upon giving fourteen days' previous notice to the Company of their desire to do so have the right to use such works or any of them for the support of any electric wires or lamps and fittings or any gas lamp fittings that may be the property of the corporation or of any company with whom the corporation shall contract for the lighting of street lamps all such works shall be painted by the Company once in every year with good oil paint of a colour or colours to be approved by the corporation and no standard post or bracket shall be used for the display of advertisements Provided always that the corporation shall make good any damage that may be done to any such works by reason of such user and shall indemnify and save harmless the Company from all claims demands actions costs and expenses which the Company may incur to third parties by reason of or arising out of such user as aforesaid:

(15) If the Company shall discontinue the use of any posts standards or brackets or overhead electric wires placed or maintained in or over any road for supplying electrical motive power or if the right of the Company to use the electricity supplied by means of such posts standards brackets or overhead wires shall cease and determine the Company shall if required by the corporation forthwith at their own cost remove such posts standards brackets and wires and shall restore and make good the streets and roads to the reasonable satisfaction of the Corporation and in case of default by the Company the corporation may do the work themselves and the cost thereof shall be a debt due to them from the Company:

(16) The Company shall not without the consent of the corporation and upon such terms as the corporation may impose open for traffic any portion of the tramways until the whole of the tramways (except such tramways which as herein-after provided are not to be constructed without the consent of the corporation) are completed and ready for opening:

(17) Notwithstanding anything in the Tramways Act 1870 or in this Act contained if the Company abandon the undertaking or any part thereof or if at any time after the opening of any of the tramways in any district for traffic the Company discontinue working such tramways or any part thereof for the space of three calendar months or if at any time after such opening it appears to the corporation and to the Board of

A.D. 1898.

Trade that the Company are insolvent and an Order is made by the Board of Trade under section 41 or section 42 of the Tramways Act 1870 the corporation may (if they think fit) in lieu of exercising the powers conferred upon them by the said sections cause a valuation of such tramways and an estimate of the cost of the removal of the same and of the reinstatement of the roads within such district upon which the same are laid to be made and thereupon and upon payment by the corporation to the Company or other the person or persons for the time being entitled to give a legal discharge for the same of such a sum as will represent the excess of the said valuation over the said estimate such tramways and all the rights powers and authorities in respect of such tramways of the Company previous to the making of such Order by the Board of Trade shall be transferred to vested in and exerciseable by the corporation and in case any difference arises as to the amount of any such valuation or estimate the same shall be referred to and settled by a referee to be appointed by the Board of Trade in manner provided by section 33 of the Tramways Act 1870 Provided that if the amount of such estimate in any case exceeds the amount of such valuation the corporation may take possession of such tramways within their district and such tramways and all such rights powers and authorities as aforesaid in respect of such tramways shall be transferred to vested in and exerciseable by the corporation :

(18) The corporation may between the hours of twelve o'clock midnight and six in the morning and in such manner as they think fit use the tramways free of toll or charge for sanitary purposes and for the conveyance of scavenging stuff nightsoil road and sewer material coal pipes and any other materials required for or arising at the works of the corporation and shall have power to form connexions between any yards or works belonging to the corporation and the tramways Provided that in the construction of any such connexion no damage shall be done to the tramways Provided also that the corporation shall not be entitled to use or employ for such purposes or any of them any carriage trucks horses or other motive power or offices or servants of the Company Provided also that the corporation shall make full compensation to the Company for all damage done by such user to the tramways :

(19) The Company shall keep at their principal offices within the borough full and accurate accounts (both in respect of

capital and revenue) of the undertaking and such accounts with all books papers and vouchers thereto belonging or relating shall at all reasonable times be open to the inspection of the corporation or of any officer or expert appointed by them If in any financial year the net profits of the undertaking shall be more than sufficient to pay a cumulative dividend at the rate of ten per centum per annum on the paid-up share capital of the Company such a sum as represents the excess above such cumulative rate of ten per centum per annum shall be carried to a separate fund Such separate fund as to one moiety thereof shall belong to the Company and the other moiety shall be paid to the corporation :

(20) A copy of every half-yearly balance sheet of the accounts of the Company relating to the undertaking shall within seven days after the same shall have been approved at a general meeting of the Company be forwarded to the corporation by the Company :

(21) The Company shall at all times after the opening of the tramways or any part or parts thereof for public traffic provide such service of cars as may be reasonably required by the corporation in the public interests and shall commence such service at half-past five in the morning (except on Sundays Christmas Day and Good Friday) or at such later hour as the corporation may from time to time authorise and the Company shall be liable to a penalty of not exceeding five pounds for every day on which they shall fail to comply with the provisions of this section Any question which may arise as to the service of cars required in the public interests may be determined on the application of the Company or of the corporation or other body or person by the Board of Trade :

(22) Subject to the provisions of this Act the size and construction of all carriages to be used on the tramways and the wheels and the brakes attached thereto shall be in accordance with designs plans sections and specifications to be previously submitted to and reasonably approved by the corporation or in case of difference between the corporation and the Company they shall be such as the Board of Trade shall determine :

(23) The powers conferred upon local authorities by section 48 of the Tramways Act 1870 shall be enjoyed by the corporation in all respects as if the corporation were the authority in which were vested the like powers with respect to hackney carriages and the drivers and other persons having charge thereof and the standings for the same :

A.D. 1898.

(24) The Company shall within three months after the opening of the said tramways for public traffic provide and thereafter maintain in the borough such a number of convenient shelters or waiting rooms properly furnished for passengers (not exceeding six in number and at a cost including furniture not exceeding one hundred and fifty pounds each) and in such positions as the corporation may reasonably require Such waiting rooms shall be arranged and constructed to the reasonable satisfaction of the corporation and in accordance with plans previously submitted to and approved by the corporation Provided that if any site required by the corporation for any such shelter or waiting room shall involve an expenditure of more than the said sum of one hundred and fifty pounds the Company shall not be bound to adopt such site unless the corporation shall agree to bear and provide the difference in cost which they are hereby authorised to bear and provide out of the borough fund and the amount of such difference shall be paid by the corporation to the Company after completion of any such shelter or waiting room the extra cost of which the corporation shall have agreed to bear and provide :

(25) No undue preference shall be given by the Company to any person or persons in respect of the carriage of any parcels on the tramways :

(26) The Company shall on demand pay to the corporation all reasonable charges and expenses incurred by the corporation for the supervision and inspection of any work done or to be done by the corporation in connexion with the tramways and the corporation are hereby authorised to order such supervision and inspection of the work as they may deem proper Provided that the amount of such costs charges and expenses shall in case of dispute be from time to time settled by the Board of Trade or by some competent and independent person to be nominated by the Board of Trade on the application of the Company or the corporation :

(27) Any difference which arises between the Company and the corporation or any surveyor or other person under this section shall be deemed a matter in difference within section 33 of the Tramways Act 1870 and the provisions as to arbitration of the said section shall apply accordingly :

(28) If in the opinion of the borough surveyor any of the tramways or any part of any tramway by this Act authorised to be constructed with a double line cannot be so constructed without danger to the public or undue interference with the

ordinary traffic on the roads or access to premises abutting thereon the corporation may by notice in writing served upon the Company within one month after service on the corporation by the Company of notice of the intention of the Company to open and break up any road in connexion with any such tramway or part of any such tramway require the Company to construct any tramway or part of any tramway specified in such notice as a single line with passing places and the Company shall construct the tramway or part of any tramway so specified as a single line with passing places Provided that if any difference shall arise between the corporation and the Company as to whether any such tramway or part of a tramway ought to be constructed as a single line such difference shall be settled in manner provided by section 33 of the Tramways Act 1870:

(29) Notwithstanding anything to the contrary in this Act or in the deposited plans and sections contained the tramways to be constructed in Marlborough Street Princes Street Granby Street and High Street shall not be constructed without the specific consent in writing of the corporation first had and obtained which consent the corporation is hereby empowered to give with respect to any one or more of the said streets upon such terms and conditions as it may deem expedient Provided that the time within which such last-mentioned tramways may be completed shall be two years from the date of such consent.

For the protection of the Admiralty.

9. In carrying into effect the works by this Act authorised with reference to the alteration and improvement of Keyham Road the following provisions for the protection of the Lords of the Admiralty shall have effect namely:—

(1) In carrying out the works in Keyham Road shown on the plans signed by the Right Honourable James William Lowther as aforesaid the Company shall before altering or interfering with gateways and entrances Nos. 1 to 7 on the said plans of Keyham Dockyard submit to the Director of Works to the Admiralty detailed drawings of the proposed alterations and no such alterations shall be commenced until such drawings have been approved in writing by the said Director of Works and shall in all respects be carried out in accordance with such detailed drawings when so approved:

(2) The Company shall at their own expense remove the North Gate of Keyham Dockyard (known as Gateway No. 5) from its present position and shall re-erect the same on a site opposite

A.D. 1898.

St. Levan Road and shall fill up and make good the wall on the present site of the said North Gate and shall also if so required by the Lords of the Admiralty in writing under the hand of the Director of Works to the Admiralty erect a new police house and searching room similar to those existing on a site within the said dockyard to be indicated in writing by and in accordance with plans to be reasonably approved by the said Director of Works and the Company shall if so required in writing as aforesaid take down and remove the existing police house and searching room in the said dockyard:

(3) The Company shall at the like expense lay and construct upon the site shown on the plan signed in duplicate by the said Right Honourable James William Lowther (one copy of which plan has been deposited in the Private Bill Office of the House of Commons) within the said dockyard a good and sufficient road to be constructed and paved with granite sets in a manner similar to the existing road in the said dockyard together with all works incidental to the construction of such road for the purpose of connecting the gateway of the said North Gate when re-erected as aforesaid with the existing road and one copy of which plan shall be deposited with the said Director of Works:

(4) If in carrying out the said works in Keyham Road it shall become necessary to alter and relay any water gas or drain pipes laid or used in connexion with the said dockyard or to underpin any wall forming part of the boundary of the said dockyard or to do or execute any other work in any way affecting the said dockyard all works relating to any matter or thing herein referred to shall be executed to the reasonable satisfaction and under the supervision of the said Director of Works or such person as he may appoint:

(5) All works to be done under the provisions of this section shall be carried on in accordance with such reasonable directions as regards hours of work and the mode of execution thereof as may be given from time to time by the Admiral Superintendent of the said dockyard and the execution and carrying out of all such works shall be subject to the approval of the said Director of Works or other officer appointed by the Admiralty:

(6) If any difference shall arise between the Lords of the Admiralty and the Company touching anything provided for in this section or the plans sections and drawings herein referred to the same shall in case the same shall not be settled within one calendar month from the date on which either party

shall give to the other notice in writing that a difference has arisen be settled by an arbitrator to be appointed unless otherwise agreed by the Board of Trade on the application of either party and the provisions of the Arbitration Act 1889 shall apply to every such arbitration.

Capital.

10. The capital of the Company shall be one hundred and fifty thousand pounds in fifteen thousand shares of ten pounds each.

Shares not to be issued until one fifth paid.

11. The Company shall not issue any share created under the authority of this Act nor shall any such share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof.

Calls.

12. One fifth of the amount of a share shall be the greatest amount of a call and two months at least shall be the interval between successive calls and three fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt in case of persons not sui juris.

13. If any money is payable to a shareholder or mortgagee being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to borrow.

14. The Company may from time to time borrow on mortgage of the undertaking any sum or sums not exceeding in the whole eighteen thousand seven hundred and fifty pounds in respect of each seventy-five thousand pounds of capital But no part of either of the before-mentioned sums of eighteen thousand seven hundred and fifty pounds shall be borrowed until shares for the portion of the capital in respect of which the borrowing powers are to be exercised are issued and accepted and one half thereof is paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such portion of capital have been issued and accepted and that one half of such portion has been paid up and that not less than one fifth part of the amount of each separate share in such portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof and that such shares were issued bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also that such persons or corporations or their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the

A.D. 1898.

Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof Provided also that the Company shall not be entitled to exercise any power of borrowing under the provisions of this section until they shall have constructed continuous tramways equal to one half in length of the tramways by this Act authorised.

Indorsement of notice of power of future purchase by local authority.

15. No mortgage granted by the Company shall be a charge upon the tramways or the undertaking or any part thereof in the event of purchase by the local authority under the power of purchase conferred by section 43 of the Tramways Act 1870 or by this Act and every mortgage deed granted by the Company shall be endorsed with a notice to that effect.

Application of moneys.

16. All moneys raised under this Act whether by shares or borrowing shall be applied only to the purposes of this Act to which capital is properly applicable.

For appointment of a receiver.

17. The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than two thousand pounds in the whole.

Company not to create debenture stock.

18. The Company shall not create debenture stock.

Mortgage to comprise purchase money paid on compulsory sale.

19. Every mortgage of the Company's undertaking shall be deemed to comprise all purchase money which may be paid to the Company in the event of a compulsory sale to the local authority and may comprise all or any moneys carried to the contingency fund according to the terms of the mortgage.

First ordinarymeeting.

20. The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

Number of directors.

21. The number of directors shall be five but the Company may from time to time alter the number provided that the number be never less than three nor more than five.

Qualification of directors.

22. The qualification of a director shall be the possession in his own right of not less than twenty shares.

Quorum for meeting of directors.

23. The quorum for a meeting of directors shall be three.

First directors.

24. Thomas James Rigby John James Briggs and James William Thompson and two persons to be nominated by them or

A.D. 1898.

the survivor of them and consenting to such nomination shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the passing of this Act At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or nominated as aforesaid or any of them or may elect a new body of directors or directors to supply the place of those not continued in office the directors appointed by this Act or nominated as aforesaid being if they continue qualified eligible for re-election and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation Act 1845 and the several persons elected at any such meeting being neither removed nor disqualified nor having died or resigned shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Election of directors.

25. Whereas pursuant to the standing orders of both Houses of Parliament and to the Parliamentary Deposits Act 1846 a sum of two thousand eight hundred and ninety-seven pounds nine shillings and twopence has been deposited with the Paymaster-General for and on behalf of the Supreme Court in respect of the application to Parliament for this Act (herein-after referred to as "the deposit fund") representing five per centum upon the amount of the estimate in respect of the tramways Be it enacted that notwithstanding anything contained in the said Act the deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them (which persons survivors or survivor are or is in this Act referred to as "the depositors") unless the Company shall previously to the expiration of the period limited by this Act for completion of the tramways open the same for the public conveyance of passengers Provided that if within such period as aforesaid the Company open any portion of the tramways for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the tramways opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the tramways so opened bears to the

Tramway deposit fund not to be repaid until line opened.

A.D. 1898.

entire length of the tramways hereby authorised the High Court shall on the application of the depositors order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the above-mentioned Act to the contrary notwithstanding.

Application of tramway deposit fund.

26. If the Company do not previous to the expiration of the period limited for the completion of the tramways complete the same and open them for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the London Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the tramways or any portion thereof and also in compensating all road authorities for the expenses incurred by them in taking up any tramway or materials connected therewith placed by the Company in or on any road vested in or maintainable by such road authorities respectively and in making good all damage caused to such roads by the construction or abandonment of such tramway and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court may seem fit And if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall if a receiver has been appointed or if the Company is insolvent and has been ordered to be wound up or the undertaking has been abandoned be paid or transferred to such receiver or to the liquidator or liquidators of the Company or be applied in the discretion of the court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid or re-transferred to the depositors Provided that until the deposit fund has been repaid to the depositors or has become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors or the persons claiming through or under them.

Provisions as to motive power.

27. The carriages used on the tramways may be moved by animal power or subject to the following provisions by mechanical power (that is to say):—

(1) The mechanical power shall not be used except with the consent of and according to a system approved by the Board of Trade:

(2) The Board of Trade shall make regulations (in this Act referred to as "the Board of Trade regulations") for securing to the public all reasonable protection against danger arising from the use under this Act of mechanical power on the tramways and for regulating the use of electric power:

(3) The Company or any other company or person using any mechanical power contrary to the provisions of this Act or of the Board of Trade regulations shall for every such offence be liable to a penalty not exceeding ten pounds and also in the case of a continuing offence to a further penalty not exceeding five pounds for every day during which such offence is continued after conviction thereof:

(4) The Board of Trade if they are of opinion—

(*a*) that the Company or such other company or person have or has made default in complying with the provisions of this Act or of the Board of Trade regulations whether a penalty in respect of such non-compliance has or has not been recovered; or

(*b*) that the use of mechanical power as authorised under this Act is a danger to the passengers or the public;

may by order either direct the Company or such other company or person to cease to use such mechanical power or permit the same to be continued only subject to such conditions as the Board of Trade may impose and the Company or such other company or person shall comply with every such order In every such case the Board of Trade shall make a special report to Parliament notifying the making of such order.

Mechanical power works to be subject to Tramways Act 1870.

28. All works to be executed by the Company in any street or road for working the tramways by mechanical power in pursuance of the powers of this Act shall be deemed to be works of a tramway subject in all respects to the provisions of the Tramways Act 1870 and the expression "tramway" in that Act shall be construed accordingly.

Byelaws.

29. The Corporation may in manner prescribed by and subject to the provisions of section 46 of the Tramways Act make

A.D. 1898.

regulations and byelaws with regard to any of the tramways for all or any of the following purposes in addition to the purposes named in the said section (that is to say) :—

For regulating the use of any bell whistle or other warning apparatus ;

For prohibiting or regulating the emission of smoke or steam from engines used on the tramways ;

For providing that engines and carriages shall be brought to a stand at the intersection of cross streets and at such places and in such cases of horses being frightened or of impending danger as the local authority may deem proper for securing safety ;

For regulating the entrance to exit from and accommodation in the carriages used on the tramways and the protection of passengers from the machinery of any engine used for drawing or propelling such carriages ;

For providing for the due publicity of all byelaws and Board of Trade regulations in force for the time being in relation to the tramways by exhibition of the same in conspicuous places on the carriages and elsewhere ;

For prohibiting the stopping of tramway carriages for any purpose in any place which the local authority having regard to the safety protection and convenience of the public may deem necessary ;

For prohibiting the passengers from entering or leaving any carriage at any place which the local authority having regard to the protection safety or convenience of the public may prescribe ;

For enforcing good conduct attention and civility from the drivers conductors and other servants employed in working the tramways ;

For the numbering of the tramway carriages ;

For the wearing by drivers and conductors of tramway carriages of some conspicuous badge or distinguishing mark ;

For empowering the local authority to cause to be removed from the tramways any horse engine carriage fittings or other things which in its opinion are unfit for use on tramways ;

For prohibiting overcrowding in the carriages ;

For regulating or prohibiting the placing and fixing on the carriages of advertisements boards and placards and notices and the removal thereof if the same are unsafe unsightly or inconvenient ;

For regulating the lights to be carried upon engines and carriages of the Company between sunset and sunrise and at such other times as may be necessary for the public safety :

Any person offending against or committing a breach of any of the byelaws made by the Board of Trade under the authority of this Act shall be liable to a penalty not exceeding forty shillings.

Amendment of Tramways Act 1870 as to byelaws by local authority.

30. The provisions of the Tramways Act 1870 relating to the making of byelaws by the local authority with respect to the rate of speed to be observed in travelling on the tramways shall not authorise the local authority to make any byelaw sanctioning a higher rate of speed than that authorised by this Act or by the Board of Trade regulations at which engines are to be driven or propelled on the tramways under the authority of this Act but the local authority may if they think fit make byelaws under the provisions of the Tramways Act 1870 for restricting the rate of speed to a lower rate than that so authorised.

Orders and byelaws.

31. All orders regulations and byelaws made by the Board of Trade under the authority of this Act shall be signed by a secretary or assistant secretary of the Board.

As to recovery of penalties.

32. Any penalty under this Act or under any byelaw or regulation made under this Act may be recovered in manner provided by the Summary Jurisdiction Acts.

Provisions as to use of electric power.

33. The following provisions shall apply to the use of electric power under this Act unless such power is entirely contained in and carried along with the carriages :—

(1) The Company shall employ either insulated returns or uninsulated metallic returns of low resistance :

(2) The Company shall take all reasonable precautions in constructing placing and maintaining their electric lines and circuits and other works of all descriptions and also in working their undertaking so as not injuriously to affect by fusion or electrolytic action any gas or water pipes or other metallic pipes structures or substances or to interfere with the working of any wire line or apparatus from time to time used for the purpose of transmitting electric power or of telegraphic telephonic or electric signalling communication or the currents in such wire line or apparatus :

(3) The Company shall be deemed to take all reasonable precautions against interference with the working of any wire line or apparatus if and so long as they adopt and employ at the option of the Company either such insulated returns or such uninsulated metallic returns of low resistance and such

A.D. 1898.

other means of preventing injurious interference with the electric wires lines and apparatus of other parties and the currents therein as may be prescribed by the Board of Trade regulations and in prescribing such means the Board shall have regard to the expense involved and to the effect thereof upon the commercial prospects of the undertaking:

(4) At the expiration of two years from the passing of this Act the provisions of this section shall not operate to give any right of action in respect of injurious interference with any electric wire line or apparatus or the currents therein unless in the construction erection maintaining and working of such wire line and apparatus all reasonable precautions including the use of an insulated return have been taken to prevent injurious interference therewith and with the currents therein by or from other electric currents:

(5) If any difference arises between the Company and any other party with respect to anything herein-before in this section contained such difference shall unless the parties otherwise agree be determined by the Board of Trade or at the option of the Board by an arbitrator to be appointed by the Board and the costs of such determination shall be in the discretion of the Board or of the arbitrator as the case may be:

(6) The electric power shall be used only in accordance with the Board of Trade regulations and in such regulations provision shall be made for preventing fusion or injurious electrolytic action of or on gas or water pipes or other metallic pipes structures or substances and for minimising as far as is reasonably practicable injurious interference with the electric wires lines and apparatus of other parties and the currents therein whether such lines do or do not use the earth as a return:

(7) The expression "the Company" in this section shall include lessees licencees and any corporation or person owning working or running carriages over any tramway of the Company.

Arrangements with local authority and others as to supply and use of mechanical power.

34. The Company may enter into and carry into effect arrangements and agreements with the local authority or with any other company or person for the supply and the use upon any tramways leased or worked by the Company of any form of mechanical power which the Company are authorised to employ and may acquire any patents patent rights or licences to use patents not being exclusive for or in connexion with such mechanical power Provided always that the Company shall not under any circumstances without the consent of the Corporation enter into any arrangement

or agreement (save and except with the corporation) for the supply or use of electricity in the borough.

For protection of Postmaster-General.

35. In the event of any tramways of the Company being worked by electricity the following provisions shall have effect:—

(1) The Company shall construct their electric lines and other works of all descriptions and shall work their undertaking in all respects with due regard to the telegraphic lines from time to time used or intended to be used by Her Majesty's Postmaster-General and the currents in such telegraphic lines and shall use every reasonable means in the construction of their electric lines and other works of all descriptions and the working of their undertaking to prevent injurious affection whether by induction or otherwise to such telegraphic lines or the currents therein If any question arises as to whether the Company have constructed their electric lines or other works or work their undertaking in contravention of this subsection such question shall be determined by arbitration and the Company shall be bound to make any alterations in or additions to their system which may be directed by the arbitrator:

(2) If any telegraphic line of the Postmaster-General is injuriously affected by the construction by the Company of their electric lines and works or by the working of the undertaking of the Company the Company shall pay the expense of all such alterations in the telegraphic lines of the Postmaster-General as may be necessary to remedy such injurious affection:

(3)—(a) Before any electric line is laid down or any act or work for working the tramways by electricity is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs or the laying of lines crossing the line of the Postmaster-General at right angles at the point of shortest distance and so continuing for a distance of six feet on each side of such point) the Company or their agents not more than twenty-eight nor less than fourteen days before commencing the work shall give written notice to the Postmaster-General specifying the course of the line and the nature of the work including the gauge of any wire and the Company and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the said act or work;

A.D. 1898.

(b) Any difference which arises between the Postmaster-General and the Company or their agents with respect to any requirements so made shall be determined by arbitration :

(4) In the event of any contravention of or wilful non-compliance with this section by the Company or their agents the Company shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for every day on which such interruption continues :

(5) Provided that nothing in this section shall subject the Company or their agents to a fine under this section if they satisfy the Court having cognizance of the case that the immediate doing of the act or execution of the work was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof stating the reason for doing or executing the same without previous notice :

(6) For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work :

(7) For the purposes of this section and subject as therein provided sections two eight nine ten eleven and twelve of the Telegraph Act 1878 shall be deemed to be incorporated with this Act as if the Company were undertakers within the meaning of those sections without prejudice nevertheless to any operation which the other sections of the said Act would have had if this section had not been enacted and in particular nothing in this section shall be deemed to exclude the provisions of section seven of the Telegraph Act 1878 in relation to the matters mentioned in that section :

(8) The expression "electric line" has the same meaning in this section as in the Electric Lighting Act 1882 :

(9) Any question or difference arising under this section which is directed to be determined by arbitration shall be determined by an arbitrator appointed by the Board of Trade on the application of either party whose decision shall be final and sections thirty to thirty-two both inclusive of the Regulation

of Railways Act 1868 shall apply in like manner as if the Company or their agents were a company within the meaning of that Act:

(10) Nothing in this section contained shall be held to deprive the Postmaster-General of any existing right to proceed against the Company by indictment action or otherwise in relation to any of the matters aforesaid:

(11) In this section the expression "the Company" includes their lessees and any person owning working or running carriages on any of the tramways of the Company and the expressions "tramways" and "undertaking" include any tramways worked or used by the Company.

For protection of Great Western Railway Company.

36. Notwithstanding anything in this Act contained the following provisions for the protection of the Great Western Railway Company (in this section called "the Great Western Company") shall unless otherwise agreed between the Company and the Great Western Company apply and have effect (that is to say):—

(*a*) Where any tramway by this Act authorised will pass under or over railway bridges belonging to the Great Western Company the same shall be constructed under the superintendence and to the reasonable satisfaction of the Great Western Company unless after notice to be given by the Company fourteen days at least before the commencement of the work such superintendence is refused or withheld and in accordance with plans previously submitted to and approved by the Great Western Company and in the event of any difference arising between the Great Western Company and the Company in accordance with plans approved by the Board of Trade and if the Great Western Company shall not give notice to the Company of their disapproval of the plans within fourteen days after the same shall have been submitted to them they shall be deemed to have approved the same:

(*b*) No part of Tramways Nos. 8 and 10 where they respectively pass on or over the bridges or the approaches thereto respectively carrying Saltash Road and Tavistock Road over the railway of the Great Western Company shall be used as a turnout:

(*c*) The Company shall from time to time be responsible for and make good to the Great Western Company all losses damages and expenses which may be occasioned to them or any of their works or property or to the traffic on their railways or to any company or persons using the same or

A.D. 1898.

otherwise during the execution or by reason of the failure of any of the intended works or of any act default or omission of the Company or of any person in their employ or of the contractors or otherwise and the Company shall effectually indemnify and hold harmless the Great Western Company from all claims and demands upon or against them by reason of such execution or failure and of any such act default or omission.

For protection of London and South Western and Plymouth Devonport and South Western Junction Railway Companies.

37. For the protection of the London and South Western Railway Company and the Plymouth Devonport and South Western Junction Railway Company (in this section referred to as "the railway companies") the following provisions shall apply and have effect viz.:—

(*a*) The Company shall not in working Tramways Nos. 5 and 6 obstruct or interfere with the free ingress and egress of passengers carriages or goods at either of the entrances to or exits from the Devonport Station of the railway companies in Paradise Road and carriages used on the said tramways shall not be permitted to pull up opposite to or within ten yards of either side of either of such entrances or exits:

(*b*) The Company shall not commence or construct any portion of Tramways Nos. 5 and 6 nor any other tramways passing over the railways of the railway companies or either of them or within ten yards thereof respectively until plans drawings and specifications (herein-after referred to as "the said plans") describing the manner of and materials to be used in the construction of the said tramways shall have been delivered to the engineer of the London and South Western Railway Company (herein-after referred to as "the railway engineer") and have been examined and approved in writing by him and such works shall not in any way interfere with or damage the structure of the bridges carrying the roads over the railways of the railway companies or either of them as the case may be:

(*c*) In the event of the railway engineer failing to approve the said plans for fourteen days after the delivery thereof the same shall be referred for settlement to an engineer to be agreed upon between the Company and the railway engineer or failing agreement by an engineer to be appointed by the Board of Trade and the works shall be executed and subsequently maintained by the Company at their sole expense and under the superintendence and to the reasonable satisfaction of the railway engineer:

(*d*) If and whenever the Company do not maintain the said works in accordance with the said plans the railway companies or either of them may in case such failure continues at the expiration of fourteen days' notice in writing to the Company to execute the requisite repairs and maintenance (or in case of emergency without notice) make do and execute any works which they from time to time think requisite in that behalf and the sums from time to time reasonably expended in that behalf by the railway companies shall be repaid to them by the Company :

(*e*) The Company shall indemnify the railway companies or either of them as the case may be against all claims and compensate them for any injury which may from time to time happen to the property or works of the railway companies or to either of them as the case may be or to any person or persons using their railway in consequence of or during the construction and maintenance of the said works or the working of the said tramways :

(*f*) From and after the commencement of the said works any additional expense of the maintenance of the structure of the bridges or roads occasioned thereby shall be borne and paid by the Company :

(*g*) The railway companies or either of them as the case may be shall be at liberty to divert or stop any of the tramways temporarily if required for the purpose of executing repairs alterations or extension or widening of any of the bridges carrying roads over the railway and the Company shall have no claim against the railway companies or either of them as the case may be in respect thereof :

(*h*) Any difference which may arise between the railway companies or either of them as the case may be and the Company touching any of the matters referred to in this section and not otherwise provided for shall be decided by a single arbitrater to be appointed on the application of either party by the Board of Trade.

Company may acquire and work omnibuses.

38. The Company may provide and run omnibuses and other vehicles in connection with the tramways between Marlborough Road and the London and South Western Railway Station and between Camels Bridge and Saint Budo and for that purpose may purchase and take over the omnibuses and property of any existing omnibus company or proprietor and enter into arrangements with any such company or proprietor for the hire of omnibuses and vehicles and for joint working of any such omnibuses and vehicles in

A.D. 1898.

connexion with the tramways between the said places and may charge and take fares and tolls for the use of any such omnibuses and other vehicles.

Mode of formation of tramways.

39. Subject to the provisions of this Act every tramway to be made or laid down under this Act shall be constructed on a gauge of three feet six inches Provided always that it shall be lawful for the Company at any time hereafter with the previous approval of the local authority and the Board of Trade to increase the gauge on the tramways or any of them from three feet six inches to any gauge not exceeding four feet eight and a half inches Provided further that so much of section 34 of the Tramways Act 1870 as limits the extent of the carriages used on any tramway beyond the outer edge of the wheels of such carriages shall not if and so long as the gauge is three feet six inches apply to carriages used on the tramways but no engine or carriage used on the tramways shall exceed six feet in width or such other width as may from time to time be prescribed by the Board of Trade.

Inspection by Board of Trade.

40. The tramways shall not be open for public traffic until they have been inspected and certified to be fit for such traffic by the Board of Trade.

Tramways to be kept on level of surface of road.

41. If and whenever after the passing of this Act any road authority alters the level of any road along or across which any part of the tramway is laid or authorised to be laid the Company may and shall forthwith alter or (as the case may be) lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road as altered and in default thereof the road authority (without prejudice to any other remedy) may so alter the rails and recover the cost of and incident thereto from the Company in any court of competent jurisdiction.

Further provisions as to construction of tramways.

42. In addition to the requirements of section 26 of the Tramways Act the Company shall at the same time as they give notice to the road authority of their intention to open or break up any road for the purpose of constructing laying down maintaining renewing or altering the position of any of the tramways lay before the Board of Trade and the road authority plans sections and specifications showing such tramways and the proposed mode of constructing laying down maintaining renewing or altering the position of such tramways and a statement of the materials intended to be used therein and the Company shall not commence the construction laying down maintenance (except for the purpose of necessary repairs) renewal or altering the position of any of the tramways or part of any of the tramways respectively until such

plans sections specifications and statement have been approved by the Board of Trade and the road authority and after such approval the works shall be executed in accordance in all respects with such plans sections specifications and statement and under the superintendence and to the reasonable satisfaction of the surveyor for the time being of the road authority as provided by section 26 of the said Act.

As to rails of tramways.

43. The rails of the tramways shall be such as the Board of Trade may approve.

Penalty for not maintaining rails and roads.

44. The Company shall at all times maintain and keep in good condition and repair and so as not to be a danger or annoyance to the ordinary traffic the rails of the tramways and the substructure upon which the same rest and if the Company at any time fail to comply with this provision or with the provisions of section 25 of the Tramways Act they shall for every such offence be liable to a penalty not exceeding five pounds for every day on which such non-compliance continues.

In case it is represented in writing to the Board of Trade by the road authority of any district in which the tramways or any portion thereof are or is situate or by twenty inhabitant ratepayers of such district that the Company have made default in complying with the provisions in this section contained or with any of the requirements of sections 25 and 28 of the Tramways Act the Board of Trade may if they think fit direct an inspection by an officer to be appointed by the said Board and if such officer report that the default mentioned in such representation has been proved to his satisfaction then and in every such case a copy of such report certified by a secretary or an assistant secretary of the Board of Trade may be adduced as evidence of such default and of the liability of the Company to such penalty or penalties in respect thereof as is or are by this section imposed.

Sanitary authority to have access to sewers.

45. Every sanitary authority shall at all times have free access to and communication with all their sewers and drains and power to construct lay down maintain alter and remove any new or additional sewers and drains and to lay lateral and private drains to communicate with their existing sewers or drains or any such new or additional sewers and drains without the consent or concurrence of the Company and the provisions contained in the thirty-second and thirty-third sections of the Tramways Act shall be applicable in the case of any sewer or private drain of or under the control of the sanitary authority as if the same were a pipe for the supply of gas or water.

Double lines to be laid in certain places.

46. Where it is proposed to lay down in any road a single line of tramway and a less space than nine feet six inches would intervene between the outside of the footpath on either side of such road and the nearest rail of the tramway the Company may and shall if required by the Board of Trade and the local authority lay down in lieu of such single line a double line of tramway with proper cross-overs and every such double line shall be so laid that only one of such lines can be used at one and the same time.

Passing places to be constructed where less than a certain width left between footway and tramway.

47. Where in any road in which a double line of tramway is laid there shall be less width between the outside of the footpath on either side of the road and the nearest rail of the tramway than nine feet six inches the Company shall and they are hereby required to construct a passing place or places connecting the one tramway with the other and by the means of such passing place or places the traffic shall when necessary be diverted from one tramway to the other.

Power to make additional crossings &c.

48. The Company may subject to the provisions of this Act and with the previous consent in writing of the local authority and road authority make maintain alter and remove such crossings passing-places sidings junctions and other works in addition to those particularly specified in and authorised by this Act as they find necessary or convenient for the efficient working of the tramways or for providing access to any warehouses stables or carriage houses sheds or works of the Company Provided that in the construction of any such works no rail shall be so laid that a less space than nine feet six inches shall intervene between it and the outside of the footpath on either side of the road if one third of the owners or one third of the occupiers of the premises abutting on the place where such rail is proposed to be laid shall by writing under their hand addressed to the Company express their objection thereto.

Agreements between Company and road authorities.

49. The Company may subject to the provisions of this Act enter into agreements with any road authority with respect to the constructing forming laying down maintaining removing renewing repairing working and using of the tramways by the Company and the rails plates sleepers and works connected therewith and with respect to the widening and improvement of any roads or streets upon or along which the tramways or any part thereof are or are intended to be laid or constructed and for facilitating the passage of carriages and traffic over and along the same or any part thereof.

Temporary tramways to be made where necessary.

50. Where by reason of the execution of any work affecting the surface and soil of any road along which any of the tramways is laid it is in the opinion of the road authority necessary or expedient temporarily to remove or discontinue the use of such tramway or any part thereof the Company may with the consent in writing of the road authority and subject to such conditions and in accordance in all respects with such regulations as the road authority may make construct in the same or any adjacent road and subject to the like conditions and in accordance with the like regulations maintain so long as occasion may require a temporary tramway or temporary tramways in lieu of the tramway or part of a tramway so removed or discontinued.

If any difference arise between the Company and any road authority with respect to the reasonableness of any such conditions or regulations or with respect to the mode of constructing any temporary tramway or temporary tramways under the authority of this section the same shall be settled in the manner specified in section thirty-three of the Tramways Act for the settlement of the differences in that section mentioned.

Application of road materials excavated in construction of works.

51. Any paving metalling or material excavated by the Company in the construction of the tramways from any road under the jurisdiction or control of any road authority may be applied by the Company so far as may be necessary in or towards the reinstating of the road and the maintenance for six months after completion of any of the tramways within the district of such road authority of so much of the roadway on either side of such tramways as the Company are by section twenty-eight of the Tramways Act required to maintain and the Company shall if so required deliver the surplus paving metalling or material not used or required to be retained for the purposes aforesaid to the surveyor for the time being of the road authority or to such person or persons as he may appoint to receive the same such delivery if within the district of the road authority to be at the expense of the Company who shall deliver the same at such place within the district not being more than one mile from the place of excavation as the said surveyor shall appoint Provided that if within seven days after notice in writing to the road authority that the surplus of such paving metalling or material is ready for delivery the said surveyor shall not appoint a place for the delivery thereof such surplus paving metalling or material shall absolutely vest in and belong to the Company and may be dealt with removed and disposed of by them in such manner as they may think fit Any difference between the Company and any road authority or surveyor

A.D. 1898.

or other person with reference to any of the matters aforesaid shall be determined in manner provided by the Tramways Act with respect to differences between the Company and any road authority.

Time for completion of works.

52. The tramways shall be completed within two years from the passing of this Act and on the expiration of that period the powers by this Act granted to the Company for making and completing the same or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Land by agreement.

53. The Company may purchase and acquire by agreement any lands not exceeding in the whole five acres and may erect and hold stables offices buildings and other works and conveniences on any such lands and may from time to time by agreement take easements over lands and may erect set up maintain and use on and in any such lands buildings and works all machinery and apparatus necessary for and in connexion with the working of the tramways and constructing and repairing tram cars omnibuses and other vehicles to be used in connexion with their undertaking Provided always that nothing in this Act contained shall exempt the Company from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any land taken under the powers of this section :

Provided also that if within two years from the passing of this Act the Corporation shall have erected and set up an electrical installation for the borough and shall be able therefrom to supply the Company with the electric power necessary for properly and efficiently working the tramways within the borough the Company shall if required by the corporation in writing so to do enter into a contract with the corporation for such supply and the corporation shall so supply and the terms and conditions of such agreement (including the price to be paid) shall in case of difference for the space of one calendar month from the date of such written requirement be settled by a competent and independent person to be appointed by the Board of Trade And the Company shall not thereafter so long as the corporation shall continue so to supply in accordance with the terms and conditions thereof themselves manufacture or supply electricity or take a supply from any other company or person.

Restriction on taking houses of labouring class.

54. The Company shall not under the powers of this Act purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which on the fifteenth

day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or without the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been and shall be subsequently so occupied.

The expression "labouring class" in this section includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Rates for passengers.

55. The Company shall appoint on the tramways penny stages approved by the corporation and not exceeding one mile in distance or length and the Company may demand and take for every passenger travelling upon the tramways or any part or parts thereof including every expense incidental to such conveyance any rates or charges not exceeding one penny per stage (and in computing the said rates and charges a fraction of a stage shall be deemed a stage):

Provided always that the Company shall not demand or take from any person travelling between the General Post Office at Devonport and the boundary of the borough a greater sum than three halfpence in respect of each such journey Provided also that no charge shall be made in respect of any infant in arms.

Passengers' luggage.

56. Every passenger travelling upon the tramways may take with him his personal luggage not exceeding twenty-eight pounds in weight without any charge being made for the carriage thereof all such personal luggage to be carried by hand and at the responsibility of the passenger and not to occupy any part of a seat nor to be of a form or description to annoy or inconvenience any other passenger.

Rates for small parcels.

57. The Company may demand and take for the conveyance of small parcels on the tramways including every expense incidental to the conveyance any rates not exceeding the rates following:—

For any parcel not exceeding seven pounds in weight threepence;

For any parcel exceeding seven pounds and not exceeding fourteen pounds in weight fivepence;

For any parcel exceeding fourteen pounds and not exceeding twenty-eight pounds in weight sevenpence;

For any parcel exceeding twenty-eight pounds and not exceeding fifty-six pounds in weight ninepence:

A.D. 1898.

Provided always that no parcel shall exceed the weight of fifty-six pounds and that articles sent in large aggregate quantities although made up in separate parcels such as bags of sugar coffee meal and the like shall not be deemed parcels but that term shall apply only to single parcels in separate packages.

As to mode &c. of payment of passenger rates.

58. The rates and charges by this Act authorised to be taken for passengers (including therein the cheap fares for the labouring classes) shall be paid at such times and places and to such persons upon or near to the tramways and in such manner and under such regulations as the Company may from time to time by notice to be annexed to the list of those rates and charges appoint.

List of rates to be exhibited.

59. A list of the rates and charges by this Act authorised to be taken for passengers (including therein the cheap fares for the labouring classes) and which shall be charged by the Company from time to time shall be exhibited in a conspicuous place inside only of each of the carriages used upon any of their tramways for the conveyance of passengers.

Company not to use carriages constructed for use on railways.

60. The Company shall not use upon the tramways carriages or trucks constructed for use upon railways.

Company not to carry animals and goods.

61. The Company shall not carry on the tramways any goods animals or other things other than passengers' luggage not exceeding the weight in this Act in that behalf mentioned and such small parcels not exceeding in the case of each parcel fifty-six pounds in weight as can be conveyed in or on the passenger carriages without annoyance or inconvenience to the passengers In case the Company carry parcels they may and when required by the local authority shall carry the same in separate parts of carriages set apart for that purpose.

As to fares on Sundays or holidays.

62. The Company shall not take or demand on Sundays or any bank or other public or local holiday any higher fares or charges than those levied by them on ordinary week days.

Cheap fares for labouring classes.

63. The Company at all times after the opening of the tramways or any part or parts thereof for public traffic shall and they are hereby required to run at least four carriages each way every morning in the week and every evening in the week (Sundays Christmas Day and Good Friday always excepted) at such hours not being later than seven in the morning or earlier than five in the evening respectively as the local authority think most convenient for artisans mechanics daily labourers clerks and shop assistants at fares not exceeding one halfpenny per mile (the Company nevertheless not being required to take any fare less than one penny) and

the Company shall be liable to a penalty not exceeding two pounds for every day (except as aforesaid) on which they do not run such number of carriages as aforesaid in accordance with the provisions of this section Provided that in case of any complaint made to the Board of Trade of the hours appointed by the Company for the running of such carriages the said Board shall have power to fix and regulate the same from time to time and upon the application of the local authority the said Board may for reasonable cause shown order the Company to run an extra carriage or carriages at the like fares and may on the application of the Company and for reasonable cause shown reduce the number of such carriages.

Periodical revision of rates.

64. If at any time after three years from the opening for public traffic of the tramways or any portion of the tramways or after three years from the date of any order made in pursuance of this section in respect of the tramways or any portion of the tramways it is represented in writing to the Board of Trade by the local authority of any district in which the tramways or such portion of the tramways are or is wholly or partially situate or by twenty inhabitant ratepayers of any such district or by the Company that under the circumstances then existing all or any of the rates and charges demanded and taken in respect of the traffic on the tramways or on such portion of the tramways should be revised the Board of Trade may (if they think fit) direct an inquiry by a referee to be appointed by the said Board in accordance with the provisions of the Tramways Act and if such referee report that it has been proved to his satisfaction that all or any of such rates and charges should be revised the said Board may make an order in writing altering modifying reducing or increasing all or any of the rates and charges to be demanded and taken in respect of the traffic on the tramways or on such portion of the tramways in such manner as they think fit and thenceforth such order shall be observed until the same is revoked or modified by an order of the Board of Trade made in pursuance of this section Provided always that the rates and charges prescribed by any such order shall not exceed in amount the rates and charges by this Act authorised.

Form and delivery of notices.

65. With respect to notices and the delivery thereof by or to the Company the following provisions shall have effect (namely) :—

(1) Every notice shall if given by the Company or by the local or road authority be sufficiently authenticated by being signed by their secretary or clerk :

(2) Any notice to be delivered by or to the Company to or by the local or road authority or other body may be delivered by

A.D. 1898.

being left at the principal office of such local or road authority or other body or of the Company (as the case may be) or by being sent by post in a prepaid letter addressed to their respective clerk or secretary at their principal office in the district.

Interest not to be paid on calls paid up.

66. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

Deposits for future Bills not to be paid out of capital.

67. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any standing order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other tramway or to execute any other work or undertaking.

Provision as to general Tramway Acts.

68. Nothing in this Act contained shall exempt the Company or the tramways from the provisions of any general Act relating to tramways now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates or charges authorised by this Act.

Costs of Act.

69. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act shall be paid by the Company.

Printed by Eyre and Spottiswoode,
FOR
T. Digby Pigott, Esq., C.B., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
Eyre and Spottiswoode, East Harding Street, Fleet Street, E.C.; or
John Menzies & Co., 12, Hanover Street, Edinburgh, and
90, West Nile Street, Glasgow; or
Hodges, Figgis, & Co., Limited, 104, Grafton Street, Dublin.

H 1085